

Message Text

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62 S

ORIGIN ARA-20

INFO OCT-01 ISO-00 L-03 CIAE-00 DODE-00 PM-07 H-03 INR-11

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 AID-20 IO-14 /130 R

DRAFTED BY ARA/USOAS-FJMCNEIL:BJF

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ARA/USOAS-AMB. MAILLIARD(DRAFT)

ARA - MR. SHLAUDEMANN

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----- 064463

R 072104Z SEP 74

FM SECSTATE WASHDC

TO AMEMBASSY BOGOTA

INFO AMEMBASSY BRASILIA

AMEMBASSY CARACAS

AMEMBASSY SAN JOSE

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E.O. 11652:GDS

TAGS:PFOR, OAS, CU, CO

SUBJECT: CUBAN SANCTIONS

REF: BOGOTA 7933

1. YOU WERE CORRECT IN SAYING THAT THE ORGAN OF CONSULTATION, EITHER MEETING AT THE LEVEL OF THE FOREIGN MINISTERS, OR WITH THE OAS PERMANENT COUNCIL ACTING PROVISIONALLY AS THE ORGAN OF CONSULTATION, REQUIRES A TWO-THIRDS VOTE FOR "DECISIONS" PER ARTICLE 17 OF THE RIO TREATY. ONLY QUESTIONS WHICH ARE BASICALLY OF PROCEDURAL IMPORT, (E.G., CONVOCAION OF THE ORGAN OF CONSULTATION), UNDER ARTICLES 13 AND 15 ARE EXEMPT FROM THIS REQUIREMENT. THESE REQUIRE ONLY AN ABSOLUTE MAJORITY.

2. HENCE, BOTH THE "DECISION" TO INSTITUTE "MEASURES" (E.G., SANCTIONS) IN ACCORDANCE WITH ARTICLE 8 OF THE
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TREATY AND THE DECISION TO LIFT OR MODIFY SUCH MEASURES

REQUIRES A TWO-THIRDS VOTE REGARDLESS WHETHER THE ORGAN OF CONSULTATION IS HELD AT THE LEVEL OF A MFM OR OF THE PERMANENT COUNCIL. YOU MAY CONFIRM -THIS AS OUR INTERPRETATION TO LIEVANO.

3. FYI. WE ASSUME LIEVANO'S COMMENTS WERE LARGELY THE PRODUCT OF THE RECENCY OF HIS TENURE AND UNFAMILIARITY WITH THE INTRICACIES OF RIO TREATY PROCEDURES. THERE IS, AS YOU KNOW, A PROPOSAL BY ECUADOR TO AMEND THE RIO TREATY TO PROVIDE THAT THE LIFTING OF "MEASURES" COULD BE

ACCOMPLISHED BY AN ABSOLUTE MAJORITY. EVEN IF AGREEMENT IS REACHED ON A PROTOCOL, IT WOULD NOT ENTER INTO FORCE UNTIL RATIFIED BY TWO-THIRDS OF THE MEMBER STATES, A PROCESS WHICH WILL REQUIRE CONSIDERABLE TIME. THE LEGAL ARGUMENT AGAINST USING THE COUNCIL FOR FINAL OAS ACTION RESTS LARGELY ON THE FACT THAT THE TREATY CALLS IT THE "PROVISIONAL ORGAN". THE INTENT APPARENTLY WAS TO PERMIT THE COUNCIL TO ACT IN EMERGENCIES WHEN THERE WAS INSUFFICIENT TIME TO ASSEMBLE THE MINISTERS. HOWEVER, THERE IS NO LEGAL BAR TO ACTION BY COUNCIL AS PROVISIONAL ORGAN OF CONSULTATION. IN THE PAST THE COUNCIL HAS ACTED UNDER THE TREATY ON SPECIFIC ISSUES WITHOUT A MEETING OF MINISTERS EVER TAKING PLACE. END FYI.

KISSINGER

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NNN

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